

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

RANDY TAYLOR,	:	
	:	
Plaintiff	:	
	:	CIVIL ACTION
v.	:	FILE NO. _____
	:	
PUBLIX SUPER MARKETS, INC.,	:	
	:	
Defendant	:	

PETITION FOR REMOVAL

TO: The Judges of the United States District Court, Northern District of Georgia

The Petition of Defendant Publix Super Markets, Inc. respectfully shows the
Court as follows:

1.

A civil action has been brought against Defendant Publix Super Markets, Inc. (“Publix”) in the State Court of Cobb County, Georgia, being Civil Action No. 22-A-4240, wherein Plaintiff Randy Taylor seeks recovery of damages in excess of \$75,000.

2.

The Plaintiff is now, was at the time of the commencement of this action, and at all times since has been a citizen and resident of the State of Georgia.

3.

Defendant Publix Super Markets, Inc. is now, was at the time of the commencement of this lawsuit, and at all times since, a corporation organized and existing under the laws of the State of Florida, having its principal place of business in Lakeland, Florida.

4.

Attached hereto are copies of the following pleadings and other filings in the within action, which was initially filed in the State Court of Cobb County:

- Exhibit A. Summons & Complaint with Jury Demand;
- Exhibit B. Plaintiff's First Continuing Interrogatories, Request for Production of Documents and Request for Admissions to Defendant;
- Exhibit C. Affidavit of Service of Defendant Publix Super Markets, Inc.;
- Exhibit D. Answer of Publix Super Markets, Inc.;
- Exhibit E. Demand for Twelve-Person Jury;
- Exhibit F. Defendant Publix Super Markets, Inc.'s Responses to Plaintiff's Request for Admissions and Rule 5.2 Certificate of Service;
- Exhibit G. Plaintiff's Offer of Settlement - Demand Letter

5.

In Plaintiff's *Complaint for Damages*, which was filed in the State Court of Cobb County on December 15, 2022 and served upon Publix's registered agent for service on December 20, 2022, Plaintiff Randy Taylor asserts that he is entitled to an award of special damages for past and future medical expenses and lost wages in

an amount to be shown at trial and general damages in an amount to be determined by a jury. In his *Complaint for Damages*, the Plaintiff further alleges a claim for expenses of litigation, including reasonable attorney's fees under O.C.G.A. § 13-6-11.

6.

On January 10, 2022, Plaintiff's counsel, Kevin McDonald of John Foy & Associates, wrote to Lucinda "Cindy" Poortinga, AIC, Senior Claims Consultant in the Risk Management Department at Publix Super Markets, Inc. and communicated a settlement demand on behalf of Plaintiff Randy Taylor in the amount of \$1,000,000.00. In that demand, the Plaintiff alleges medical bills/special damages in the amount of \$191,645.63 that resulted from alleged injuries suffered in this matter. (Exhibit "G").

The January 10, 2022 demand from Plaintiff's counsel to Defendant Publix communicating a settlement demand in the amount of \$1,000,000.00 reflects that the amount in controversy in the within action is in excess of the jurisdictional amount of \$75,000.

7.

Now within thirty (30) days after receipt of Plaintiff's *Complaint for Damages*, and papers reflecting that the amount in controversy exceeds \$75,000, Defendant Publix hereby removes the within action to the U.S. District Court for the

Northern District of Georgia, Atlanta Division pursuant to 28 U.S.C. § 1446(b).

8.

This action could have originally been brought in this Court under 28 U.S.C. § 1332, in that it is a civil action wherein the amount in controversy exceeds seventy-five thousand dollars (\$75,000), exclusive of interest and cost, and there is diversity of citizenship between the parties.

9.

As between the Plaintiff and Defendant Publix Super Markets, Inc. there exists complete diversity of citizenship under 28 U.S.C. § 1332(a).

10.

Pursuant to 28 U.S.C. § 1441, et seq., this action is now removable by reason of diversity of citizenship, there being more than \$75,000.00 in controversy, exclusive of interest and costs.

11.

Defendant Publix will file a Notice of Removal in the State Court of Cobb County, Georgia advising that the within action has been removed to U.S. District Court. The Answer of Publix Super Markets, Inc., Jury Demand, along with the Defendant's Responses to the Plaintiff's First Request for Admissions have not been returned by the State Court of Cobb County as of the time of this filing. The stamped filed pleadings will be provided immediately upon receipt from Cobb County.

WHEREFORE, Defendant Publix Super Markets, Inc. files this Petition for Removal of said cause to this Court.

Respectfully submitted this 19th day of January, 2023.

FAIN, MAJOR & BRENNAN, P.C.

/s/ James W. Hardee

JAMES W. HARDEE

Georgia State Bar No. 324399

*Counsel for Defendant Publix Super
Markets, Inc.*

One Premier Plaza
5605 Glenridge Drive, Suite 900
Atlanta, Georgia 30342
(404) 688-6633
jhardee@fainmajor.com

CERTIFICATION

Pursuant to L.R. 7.1(D) N.D.Ga., I certify that this document has been prepared in Times New Roman Font 14 point, as approved by the Court in L.R. 5.1C, N.D.Ga.

FAIN, MAJOR & BRENNAN, P.C.

BY: /s/ James W. Hardee
JAMES W. HARDEE
Georgia State Bar No. 324399

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	:	
Defendant	:	

CERTIFICATE OF SERVICE

This is to certify that I have this date served upon all counsel in the foregoing matter a copy of the foregoing **Petition for Removal** with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification to all attorneys of record.

Daphne Duplessis Saddler
JOHN FOY & ASSOCIATES, P.C.
3343 Peachtree Road NE, Suite 350
Atlanta, GA 30326
dsaddler@johnfoy.com

This 19th day of January, 2023.

FAIN, MAJOR & BRENNAN, P.C.

/s/ James W. Hardee

JAMES W. HARDEE

Georgia State Bar No. 324399

*Counsel for Defendant Publix Super
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